

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING

WILLIAM SEYMOUR JONES,

Petitioner,

v.

CIVIL ACTION NO.: 5:11-CV-120
(STAMP)

WARDEN KUMA DeBOO,

Respondent.

**REPORT AND RECOMMENDATION THAT PETITIONER'S MOTION TO DISMISS
BE DENIED AS MOOT, PETITIONER'S MOTION TO TAKE JUDICIAL NOTICE BE
DENIED AS MOOT, AND PETITIONER BE PROHIBITED FROM FILING ANY
FURTHER PLEADINGS IN THIS ACTION**

On January 20, 2016, petitioner filed a Motion to Dismiss Counts 5 and 7 as unconstitutional for lack of subject matter jurisdiction. ECF No. 66. On February 8, 2016, petitioner filed a Motion to Take Judicial Notice [ECF No. 74] in the underlying action in the Eastern District of Pennsylvania.

Petitioner was convicted and sentenced as follows: 137 months on Counts 1, 2, 6 & 7; seven (7) years consecutive on Count 3, 18 U.S.C. § 924 (c); and twenty-five (25) years consecutive on Count 5, 18 U.S.C. § 924(c).

The *pro se* Petitioner originally filed this Section 2241 Petition on September 9, 2011. ECF No. 1. The Court denied and dismissed this action on May 14, 2012. ECF No. 39. Petitioner appealed August 22, 2012. ECF No. 47. The Fourth Circuit dismissed the appeal on November 1, 2012. Petitioner moved to reopen the case on June 6, 2014 [ECF No. 53] and the Court denied the motion on November 18, 2014. ECF No. 55. Petitioner appealed on December 1, 2014. ECF No.

56. The appeal was dismissed February 12, 2015. ECF No. 62.

Petitioner continues to file pleadings in this action, including this Motion to Dismiss.

This Motion should be denied as moot because this case has **TWICE** been decided, dismissed, and closed. Harper v. Ashcraft, 156 F. App'x 80 (10th Cir. 2005). Further, this is an appropriate case to DIRECT the Clerk not to file ANY further pleadings in this action. See id.

Accordingly, the Court RECOMMENDS that the Motion to Dismiss be **DENIED AS MOOT**, the Motion to Take Judicial Notice be **DENIED AS MOOT**, and Petitioner be PROHIBITED from filing ANY further pleadings in this action.

Any party who appears *pro se* and any counsel of record, as applicable, may, within fourteen (14) days from the date of this Report and Recommendation, file with the Clerk of the Court the written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation.

The Clerk is DIRECTED to transmit copies of this Report and Recommendation to all counsel of record and the *Pro Se* Petitioner.

DATED: March 15, 2016

/s/ James E. Seibert
JAMES E. SEIBERT
U.S. MAGISTRATE JUDGE